

## ARTICLE 6

### SECTION 2

#### INMATES OF A PUBLIC INSTITUTION

1. Eligibility staff must consider both the facility and the individual's circumstances when making a Medi-Cal determination of eligibility for either a juvenile or an adult who is incarcerated or placed in any type of public institution. In making these determinations, staff shall follow the guidelines below as well as the chart in Appendix 6-2-A.

A. The following individuals are not eligible to receive Medi-Cal benefits:

- 1) An inmate in a prison or a county, city or tribal jail.

**Note:** This includes inmates being held prior to arraignment, conviction, or sentencing. It does not include individuals who are out on bail or their own recognizance.

- 2) An individual who is incarcerated, but can leave prison or jail on work release or work furlough and must return at specific intervals.
- 3) Individuals released from prison or jail due to a medical emergency who would otherwise be incarcerated but for the medical emergency.
- 4) A minor in a juvenile detention center prior to disposition (judgment) due to a criminal activity of the minor.
- 5) A minor who is placed in a detention or correctional facility after detention, including a youth ranch, forestry camp, or home which is part of the criminal justice system.
- 6) A minor placed on juvenile intensive probation by a juvenile court with specific conditions of release, including residence in a juvenile detention center.
- 7) A minor placed on probation by a juvenile court or on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center if the secure treatment facility is part of the criminal justice system.

B. The following individuals are entitled to receive Medi-Cal benefits if otherwise eligible:

- 1) An individual who, after arrest but before booking, is escorted by police to a hospital for medical treatment and held under guard.
- 2) An individual in prison or jail who transfers temporarily (one to two months) to a halfway house or residential treatment facility prior to a formal probation release order.
- 3) An individual who is released from prison or jail, but who is on probation, parole, or release order with one of the following conditions:

- a) Home arrest,
  - b) Work release,
  - c) Community service,
  - d) Outpatient treatment, or
  - e) Inpatient treatment.
- 4) An individual released from prison or jail under a court probation order due to a medical emergency.
- 5) A minor held in a juvenile detention center for care, protection, or in the best interest of the child if:
- It is prior to disposition (judgment), and
  - There is a specific plan for that minor that makes the stay at the detention center temporary (one to two months).

This could include those juveniles awaiting placement but still physically present in juvenile hall.

- 6) A minor placed on probation or juvenile intensive probation by a juvenile court, with home arrest restrictions.
- 7) A minor placed on probation or juvenile intensive probation to a secure treatment facility which contracts with the juvenile detention center, if the secure treatment facility is not part of the criminal justice system. This includes juveniles who become wards of the court and are placed in a 24-hour non-medical residential facility, which provides counseling and other rehabilitative services.
- 8) A minor placed on probation or juvenile intensive probation with treatment in one of the following as a condition of probation:
- a) A psychiatric hospital;
  - b) A residential treatment center; or
  - c) As an outpatient.
- 9) Individuals with tuberculosis who are under an order of detention in one of the following facilities to protect public health:
- a) A residential treatment center;
  - b) A skilled nursing facility; or
  - c) A county, city or tribal jail awaiting placement for treatment.

C. Inmates under Penal Code Sections 1367, 1370, and 1372.

- 1) **Penal Code 1367:** This penal code applies to individuals charged with a misdemeanor, but who are incompetent to stand trial. Penal Code 1367 provides that "A person cannot be tried or adjudged to punishment while that person is mentally incompetent." If a judge finds reason to believe that a defendant may be incompetent to stand trial, he/she may order that the defendant be referred for 72-hour treatment and evaluation. During this time, the defendant is entitled to Medi-Cal benefits if otherwise eligible.

If the result of the evaluation is that the individual is to be placed in a mental health facility for treatment, he/she may be entitled to receive Medi-Cal benefits if otherwise eligible.

- 2) **Penal Code 1370:** This code applies to individuals charged with a serious felony who are placed in a mental health facility because they were determined incompetent to stand trial. If an individual is still determined to be incompetent after the placement period, a Murphy Conservatorship may be established. An individual under a Murphy Conservatorship may be entitled to receive Medi-Cal benefits if otherwise eligible.
- 3) **Penal Code 1372:** This code applies to defendants who have regained competency. When a defendant returns to court with a certification that competence has been regained, the court shall determine whether the person is to be released on bail. An individual who is released on bail is not a resident of a public institution, and therefore entitled to receive Medi-Cal benefits if otherwise eligible. If not released on bail, the individual is likely to be held in a prison or jail prior to conviction or sentencing. In this situation, the individual would be a resident of a public institution and would not be eligible for Medi-Cal benefits.

TYPE OF INSTITUTION	Pre-Booking	Sentenced 21-64	Sentenced 65 or Over	JUVENILES			VOLUNTARY (Including Parolee/ Probationer)	
				Under W&I 601, 300*	Sentenced W&I 602	Others Under 21	21-64	65 or Over
Public Nonmedical Institution (Correctional)	Eligible	Ineligible	Ineligible	Eligible	Ineligible	Ineligible	Ineligible	Ineligible
Public or Private General Medical Facility (non-IMD)	Eligible	Ineligible	Ineligible	Eligible	Ineligible	Eligible	Eligible	Eligible
Public or Private Mental Facility (IMD)	Eligible	Ineligible	Ineligible	Eligible to Age 22 in Specific Facilities	Ineligible	Eligible to Age 22 in Specific Facilities	Eligible	Eligible
Community Care Facility or Residential Treatment Center, or Board and Care Home (non-correctional)	Eligible	Ineligible	Ineligible	Eligible	Ineligible	Eligible	Eligible	Eligible
Public or Private Intermediate Care or Skilled Nursing Facility (non-IMD)	Eligible	Ineligible	Ineligible	Eligible	Ineligible	Eligible	Eligible	Eligible
House Arrest	Eligible	Eligible	Eligible	Eligible	Eligible	Eligible	Eligible	Eligible

**NOTE:**

Approval of an application of an inmate eligible above shall be contingent upon all other eligibility criteria being met.

Person institutionalized prior to their 21<sup>st</sup> birthday is eligible until they reach their 22<sup>nd</sup> birthday as long as they remain continuously institutionalized and receive inpatient psychiatric care in an acute psychiatric hospital or a psychiatric health facility certified by Medi-Cal to provide inpatient hospital services.

Individuals released on bail or own recognizance (OR) are eligible for Medi-Cal.

Welfare and Institutions Code Number Explanations:

- W&I 300 - Person needs care due to mental or physical deprivation.
- W&I 601 - Uncontrollable - Ward of Court.
- W&I 602 - Violation of law.

No one under sentence is eligible for Medi-Cal. However, under Penal Code Section 1367, if a person is incompetent to stand trial, he remains in a mental facility and is eligible for Medi-Cal.

If a Murphy Conservatorship is established, sentence is terminated and person is eligible for Medi-Cal.

If a person is under sentence but transferred to a residential treatment center or board and care home prior to release, he/she is eligible for Medi-Cal.

Fleeing felons and violators of probation and parole are eligible for Medi-Cal until they have been re-incarcerated.

Individuals under an order of detention because of TB are eligible for Medi-Cal unless they are booked and sentenced for a criminal offense.